

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JENIFER FRANKLIN,

Plaintiff,

v.

DYNAMIC RECOVERY SERVICES, INC.

Defendant.

COMPLAINT

FILED: APRIL 30, 2008

08CV2477 PH

JUDGE CASTILLO

MAGISTRATE JUDGE COLE
Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT

I. INTRODUCTION

1. This action is brought by Plaintiff Jenifer Franklin for statutory damages against Defendant Dynamic Recovery Services, Inc. for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. (hereinafter referred to as "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331. Venue is proper in this district as all relevant events took place here.

III. PARTIES

3. Plaintiff Jenifer Franklin is an individual who resides in Tinley Park, Illinois.

4. Ms. Franklin is a consumer as defined by the FDCPA, 15 U.S.C. § 1692a(3).

5. Defendant Dynamic Recovery Services, Inc. (hereinafter referred to as "DRS") is a corporation organized under the laws of the State of Texas located at 4101 McEwen Road,

Dallas, Texas.

6. DRS is engaged in the collection of debts from Illinois consumers using the mail and telephone.

7. DRS regularly attempts to collect consumer debts alleged to be due to another.

8. DRS was and is a "debt collector" as defined by the FDCPA, 15 U.S.C.

§1692a(6).

IV. FACTUAL ALLEGATIONS

9. In 2001 Ms. Franklin incurred a debt to American General Finance by taking out a personal loan (hereinafter referred to as "the Debt").

10. The Debt was incurred for personal, family, or household purposes, *i.e.*, to pay off outstanding personal bills.

11. DRS obtained the Debt, after it was in default, near the beginning of May 2007.

12. In response to a letter from DRS, Ms. Franklin called DRS on or about October 2, 2007.

13. Ms. Franklin was transferred to an employee of DRS, later discovered to be Mary Lloyd.

14. Ms. Lloyd did not identify her name, but immediately started telling Ms. Franklin how much she could settle her "case" for.

15. Ms. Lloyd stated that Ms. Franklin could clean this off her credit and show it as paid.

16. Ms. Lloyd stated that it was a loan secured with an automobile.

17. Ms. Franklin told Ms. Lloyd that she was incorrect. Ms. Franklin had not secured

any loan with an automobile.

18. Ms. Lloyd stated that she was correct because “they” took the automobile and the documents showed that \$1,300 was recovered on the loan.

19. Ms. Lloyd offered to settle the Debt for a payment of \$2,337.98.

20. Ms. Franklin told Ms. Lloyd that she wanted to dispute the Debt.

21. Ms. Lloyd told Ms. Franklin that she had their address and that she had to send it in writing certified. Ms. Lloyd then hung up on Ms. Franklin.

22. Having never been told her name, Ms. Franklin called DRS back to ask.

23. Ms. Franklin was transferred to Ms. Lloyd, who told Ms. Franklin that she was about to call her back. Ms. Lloyd stated that Ms. Franklin secured the loan with a 2000 Toyota Solara with her husband Lionel Franklin.

24. Ms. Franklin asked for her name.

25. Ms. Lloyd stated, “Puddin Tang, ask me again and I’ll tell you the same.”

26. Ms. Franklin said, “your name is Puddin Tang?”

27. Ms. Lloyd responded, “yes, start telling me the truth and I’ll be honest.”

28. After Ms. Franklin provided her attorney’s information, the call ended.

29. Ms. Lloyd had stated several times that Ms. Franklin could clean her credit by paying the Debt.

30. The Debt was reported by the creditor on Ms. Franklin’s Experian Credit Report, showing a written-off balance, as of January 2007, that was over \$2,000 less than the amount Defendant attempted to collect from Ms. Franklin.

31. Ms. Franklin purchased a 2000 Toyota Solara for cash in or around June 2006.

There is no outstanding loan or money owed with respect to the 2000 Toyota Solara.

32. Ms. Franklin has owned no car other than the 2000 Toyota Solara.

33. Lionel Franklin is Ms. Franklin's brother.

34. Ms. Franklin's husband is not Lionel Franklin.

35. Lionel Franklin had nothing to do with Ms. Franklin's purchase of the 2000 Toyota Solara.

36. Ms. Franklin was offended and embarrassed by Ms. Lloyd's retort regarding her name and implication that she was married to her brother, and suffered emotional distress as a result.

V. COUNT ONE – FAIR DEBT COLLECTION PRACTICES ACT

37. Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs.

38. Defendant's violations of the FDCPA include, but are not limited to

- A. engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt in violation of 15 U.S.C. § 1692d;
- B. using any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer in violation of 15 U.S.C. §§ 1692e and e(10); and
- C. falsely representing the character, amount, or legal status of any debt in violation of 15 U.S.C. § 1692e(2)(A);

39. As a result of Defendant's violations of the FDCPA, Plaintiff is entitled to an award of actual damages, statutory damages, costs and reasonable attorney fees.

VI. REQUEST FOR RELIEF

WHEREFORE, Plaintiff Jenifer Franklin requests that judgment be entered in her favor against Defendant Dynamic Recovery Services, Inc. for:

- A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- B. Statutory damages pursuant to 15 U.S.C. § 1692k(a)(2);
- C. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k(a)(3);
- and
- D. For such other relief as the Court may find to be just and proper.

VII. JURY DEMAND

Plaintiff Jenifer Franklin hereby demands that this case be tried before a Jury.

s/ Craig M. Shapiro
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